



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

February 6, 2001

Ms. Emily M. Wetmore
Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP
333 Market Street-23rd Floor
San Francisco, California 94105-2173

RE: Interpretive Opinion No. 2001-005
American Reprographics Holdings, LLC

Synopsis: Securities distributed through a "Unit Option Plan" are exempt from registration under Kan. Stat. Ann. 17-1261(j) where the employer corporation and its subsidiaries grant Unit Options in the LLC and its subsidiaries and those membership interests are restricted to qualified employees.

Dear Ms. Wetmore,

In your letter dated December 27, 2000, you request our confirmation that securities distributed through a proposed "Unit Option Plan" are exempt from registration under Kan Stat. Ann. 17-1261(j). Pursuant to 17-1261(j), "any securities issued in connection with an employee's stock purchase, savings, pension, profit-sharing or similar benefit plan" are exempt from registration under the Kansas Securities Act.

According to your letter, the Unit Option Plan gives selected employees of American Reprographics Holdings, LLC (the "LLC") and its subsidiaries, the opportunity to own units of the LLC and its subsidiaries. The letter concedes that the membership interests are investment contracts and are therefore "securities" for purposes of state and federal securities laws. In addition, the Unit Option Plan follows the guidelines set forth under federal rule 701 of the Securities and Exchange Act of 1933. The plan is structured in the following manner:

- Unit options in the LLC will be offered to qualified employees of the LLC and its subsidiaries. Participation in the plan by qualified employees is optional.

- The Unit Option Plan is as an added employee benefit. The bonus plan is designed to encourage participation in the LLC and its subsidiaries and retain current employees. The plan is not for capitalization purposes.
- The Board of Trustees will offer qualified employees the Unit Options. The Options will be offered only after Management approval. The Company will offer a pre-determined number of units per year, as set by the Board of Trustees.
- An Option Agreement will accompany each Unit Option. The agreements will set out the provisions of each Option. All Option Agreements may not be similar and may differ in provisions.
- The price per Option will be no less than eighty-five percent (85%) of the Fair Market Value of the unit at that time. If the individual already owns ten percent (10%) or more of the voting power, then the Option will be offered at one hundred ten percent (110%) of the Fair Market Value of the unit at that time.
- The Unit Options are non-transferable and any attempt to transfer the options will not be granted except for transfers upon death.

Based on the present law and the facts expressed in your letter of December 27, 2000, staff for the Office of the Securities Commissioner conclude that the proposed Unit Option Plan constitutes a "similar benefit plan" under Kan. Stat. Ann. 17-1261(j) and is therefore exempt from registration.

Any variance from the facts expressed in your letter could result in a different conclusion. This opinion is intended solely as an expression of enforcement policy, and its legal conclusions are not binding on any court, legal tribunal, or any other person.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Fleming", with a stylized flourish at the end.

Rick A. Fleming
General Counsel